

RECORD EXTRACT OF APPELLANT

IN THE
APPELLATE COURT
OF MARYLAND

September Term 2023,
No. 61

JUSTIN HOLDER

Appellant

V.

BENJAMIN ESTES

Appellee

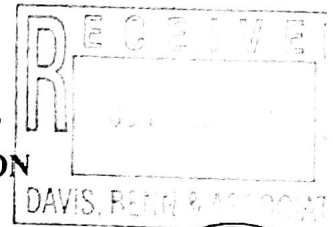
Appeal from the Circuit Court of Washington County
The Honorable Andrew F. Wilkinson

RECORD EXTRACT

Volume 6B

JUSTIN HOLDER
APPELLANT

**STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER MANAGEMENT ADMINISTRATION**



AUTHORIZATION TO PROCEED

AUTHORIZATION NUMBER: 200561839/05-NT-3012

EFFECTIVE DATE: June 6, 2005

EXPIRATION DATE: June 6, 2008

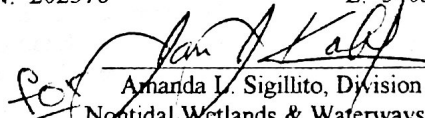
AUTHORIZED PERSON: Corporation of Keedysville
P.O. Box 359
Keedysville, MD 21756
Attn: The Honorable Lee Bradenberg, Mayor

IN ACCORDANCE WITH ENVIRONMENT ARTICLE §5-503(a) AND §5-906(b), ANNOTATED CODE OF MARYLAND, COMAR 26.17.04.03A AND 26.23.02.01A, AND THE ATTACHED PERMIT CONDITIONS OF AUTHORIZATION, CORPORATION OF KEEDYSVILLE, ("AUTHORIZED PERSON"), IS HEREBY AUTHORIZED BY THE WATER MANAGEMENT ADMINISTRATION ("ADMINISTRATION") TO CONDUCT A REGULATED ACTIVITY IN A NONTIDAL WETLAND, BUFFER, OR EXPANDED BUFFER, AND/OR TO CHANGE THE COURSE, CURRENT OR CROSS-SECTION OF WATERS OF THE STATE, IN ACCORDANCE WITH THE ATTACHED PLANS APPROVED BY THE ADMINISTRATION ON JUNE 6, 2005, ("APPROVED PLAN") AND PREPARED BY DAVIS, RENN & ASSOCIATES, INC., AND INCORPORATED HEREIN, AS DESCRIBED BELOW:

Utility line crossing of an unnamed tributary to Little Antietam Creek on the west side of Mount Hebron Road, Keedysville, Washington County, Maryland.

MD Grid Coordinates: N: 202378

E: 340521

for 
Amanda L. Sigillito, Division Chief
Nontidal Wetlands & Waterways Division

Attachments:

Conditions of Authorization
MDSPGP-2, Cat. I, d, (2)
Plans

cc: WMA Compliance Division w/ files
Joseph P. DaVia/ACOE w/attachments
Terrence McGee, WA CO Engineering Department
Stephen C. Cvijanovich/Davis, Renn & Associates, Inc.
Dave Walbeck, MDE/Technical Assistance & Mitigation

**Telephone: (301) 689-8150-Voice Mail
(301) 689-8598**

CONDITIONS OF AUTHORIZATION
PAGE 2 OF 2

AUTHORIZATION NO.200561839/05-NT-3012

THE FOLLOWING CONDITIONS OF AUTHORIZATION APPLY:

1. Validity: Authorization is valid only for use by Authorized Person.
2. Responsibility and Compliance: Authorized Person is fully responsible for all work performed. A copy of this Authorization shall be kept at the construction site. In accordance with §5-514 and §5-911, Environment Article, Annotated Code of Maryland, penalties may be assessed for violations.
3. Failure to Comply: If Authorized Person, its employees, agents or contractors fail to comply with Authorization to Proceed, the Administration may, in its discretion, issue an administrative order requiring that all activities which violate this Authorization be stopped, or the Administration may take any other enforcement action available to it by law.
4. Other Approvals: Authorized Person shall obtain all other required federal, State and local approvals prior to starting work.
5. Federally Mandated State Authorizations:
 X Water Quality Certification: Water Quality Certification is granted for this project provided that all work is performed in accordance with that the authorized project description and associated conditions.
 Coastal Zone Consistency: This authorization constitutes official notification that authorized activities are consistent with the Maryland Coastal Zone Management Program, as required by Section 307 of the Federal Coastal Zone Management Act of 1972, as amended. Activities within the following counties are not subject to this requirement: Allegany, Carroll, Frederick, Garrett, Howard, Montgomery and Washington.
6. Inspection Access and Notification: Authorized Person shall allow Administration personnel to conduct compliance inspections during normal business hours. Authorized Person shall notify the Administration's Inspection & Compliance Program at least five (5) days before starting activities authorized by Permit and five (5) days after completion. For Carroll, Frederick, & Washington County, Authorized Person shall call the Hagerstown office at (301) 665-2850. For Allegany and Garrett Counties, Authorized Person shall call the Frostburg office at (301) 689-8494.
7. Best Management Practices During Construction: Authorized Person shall conduct authorized activities in a manner consistent with the attached Best Management Practices, if applicable.
8. Disposal of Excess: Unless specifically authorized, all excess fill, spoil material, debris, and construction material shall be disposed of outside of nontidal wetlands, nontidal wetlands buffers, and the 100-year floodplain, and in a location and manner which does not adversely impact surface or subsurface water flow into or out of nontidal wetlands.
9. Temporary Impacts: Temporary construction trailers or structures, staging areas, stockpiles and stream access crossings shall not be located within nontidal wetlands, nontidal wetlands buffers, or the 100-year floodplain unless specifically authorized.
10. Instream Construction Prohibition: To protect important aquatic species and habitat, motor driven construction equipment shall not be allowed within stream channels unless on authorized ford crossings. Activities within stream channels are prohibited as determined by the classification of the stream (COMAR 26.08.02.08): Little Antietam Creek is a Use IV waterway; in-stream work may not be conducted from March 1 thru May 31 inclusive, of any year.
11. Vegetative Stabilization: All disturbed areas shall be stabilized vegetatively no later than seven (7) days after construction is completed.

REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

IMPORTANT INFORMATION ABOUT YOUR PROJECT

Date: June 6, 2005

Corps Permit No.: 200561839

MDSPGP-2 Category and Activity No.: I,d, (2)

Permittee/Project Name: Corporation of Keedsyville

Dear Applicant:

The U. S. Army Corps of Engineers, Baltimore District, has determined that the proposed work meets the terms and conditions of the Maryland State Programmatic General Permit (MDSPGP-2), provided the work is completed in compliance with the enclosed plan(s), the standard MDSPGP-2 conditions, the applicable MDSPGP-2 activity-specific conditions, and special conditions (enclosed, if applicable). This MDSPGP-2 verification is provided pursuant to Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. If any of the information contained in your application and/or plans is later found to be in error, the MDSPGP-2 authorization for your project may be modified, suspended, or revoked.

Your MDSPGP-2 authorization is valid for three years from the date of this letter, or until September 30, 2006, whichever is sooner, unless the MDSPGP-2 is modified, reissued, or revoked. If the MDSPGP-2 is modified, reissued, or revoked, your authorization may be valid for less than three years. You must remain informed of the changes to the MDSPGP-2. When changes to the MDSPGP-2 occur, a public notice announcing the changes will be issued. If you have not completed this work before the date that the MDSPGP-2 is modified or revoked, you will have 12 months from the effective date of the modification or revocation to complete the work under the present terms and conditions of this MDSPGP-2.

In order for this authorization to be valid, you must obtain all required Federal, State, and local permits.

Walter Washington, Jr.
Chief, Maryland Section Southern

Janet M. Vine
Chief, Maryland Section Northern



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

Effective October 1, 2001

200561839
Corps Permit Number

CENAB-OP-R-MDSPGP-2 (MARYLAND STATE PROGRAMMATIC GENERAL PERMIT-2)

TO WHOM IT MAY CONCERN:

Upon the recommendation of the Chief of Engineers, and under the provisions of Section 404 of the Clean Water Act, as amended, and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), the Secretary of the Army hereby authorizes the discharge of dredged or fill material or the placement of structures into Waters of the United States, including wetlands and navigable waters. These discharges and structures must comply with all the terms and conditions identified in this MDSPGP-2. It has been determined that the project qualifies for the MDSPGP-2. Accordingly, you are authorized to undertake the activity pursuant to:

1. Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403); and/or
2. Section 404 of the Clean Water Act (33 U.S.C. 1344).

You are authorized to perform work in accordance with the terms and conditions specified in Section VI of the MDSPGP-2 effective on October 1, 2001.

VI. General Conditions

The following conditions apply to all activities authorized under the MDSPGP-2.

A. General Requirements:

1. **Other Permits.** Authorization under the MDSPGP-2 does not obviate the need to obtain other Federal, State, or local authorizations required by law.
2. **Applicability.** Applicability of the MDSPGP-2 shall be reviewed with reference to the Corps definition of Waters of the United States, including wetlands and navigable waters of the United States. Applicants are responsible for delineating boundaries of all Waters of the United States, including wetland boundaries. The delineation of wetland boundaries shall be accomplished in accordance with the current Federal manual for identifying jurisdictional wetlands and appropriate guidance issued by the Corps of Engineers.
3. **Minimal Effects.** Projects authorized by the MDSPGP-2 shall have no more than minimal individual and cumulative adverse environmental effects.
4. **Discretionary Authority.** Notwithstanding compliance with the terms and conditions of the MDSPGP-2, the Corps retains discretionary authority to require an alternate Corps permit review for any project under all categories of the MDSPGP-2 based on concerns for the aquatic environment or for any other factor of the public interest. This authority is invoked on a case-by-case basis during the review process for Category III activities whenever the Corps determines that, based on the concerns stated above, the potential consequences of the proposal warrant individual review. In some instances the Corps may have concerns for the aquatic environment or for any other public interest factor pertaining to a specific project, which has received a case-specific verification as a Category I activity. In order to evaluate this project under an alternate Corps permit review, the verification must be suspended in accordance with VII.E on page 85 of the MDSPGP-2.

Whenever the Corps notifies an applicant that an alternate Corps permit may be required, authorization under the MDSPGP-2 is voided. No work may be conducted until the Corps permit is obtained, or until the Corps notifies the applicant that further review has demonstrated that the work may proceed under the MDSPGP-2.

5. **Single and Complete Projects.** The MDSPGP-2 shall not be used for piecemeal work and shall be applied to single and complete projects, including maintenance activities. All components of a project shall be reviewed together as constituting one single and complete project. All planned phases of multi-phased projects shall be applied for and reviewed together as constituting one single and complete project. The MDSPGP-2 shall not be used for any activity or portion of a project, e.g., a pier or boat ramp, that is part of, or dependent on, an overall project, e.g., the dredging of a main navigation channel or a spur channel, for which an individual permit or some other alternate Corps permit is required.
6. **Stacking of Category I activities.** Activity d.(2) in Category I (e.g., Underground and Overhead Utility Lines) may not be stacked or combined with any other Category I activity. Any single and complete project with both utility line impact(s) and other Category I activity(s), will be reviewed as a Category III project in accordance with

the Category III process specified on page 9, provided the total impact to Waters of the United States, including wetlands, is less than one acre. If any other Category I activities, except Activity d.(2), are stacked or combined to authorize a single and complete project, the total impact to Waters of the United States for all activities in the single and complete project must not exceed the 500 linear feet limit or be greater than 5,000 square feet impact limit (except for tidal marsh creation projects that have a limit of less than 17,500 square feet), while complying with each activity-specific impact limit and conditions. For example, total road crossing impacts are still limited to not exceed 200 linear feet.

7. **Authorized activities in navigable waters subject to Section 10 of the Rivers and Harbors Act of 1899.**

- a. If future operations by the United States require removal, relocation or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable water, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States on account of any such removal or alteration.
- b. The U.S. Code of Federal Regulations, Title 33, Part 64 states that all structures erected in navigable waters in depths in excess of three feet at mean low water (MLW) require obstruction lights unless the applicant is advised to the contrary by the Coast Guard District Commander. If the structures authorized by this permit are to be built in water depths in excess of three feet at MLW, the permittee must contact the Commander (AOWW), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia, 23704, to ascertain the need for obstruction lights.

B. National Concerns:

1. **Historic Properties.** Any activity authorized by the MDSPGP-2 shall comply with Section 106 of the National Historic Preservation Act. The Maryland Department of the Environment (MDE), in cooperation with the Maryland Historic Preservation Office, shall conduct an initial review and notify the Corps if any archaeological or other cultural resources are in the vicinity of the project. The Corps may require applicants to perform a survey of archeological and historical resources in the project area. The Corps shall determine if consultation under Section 106 with the Maryland Historic Trust or the Advisory Council on Historic Preservation is required. The applicant must notify the Corps if the activity may affect any historic properties listed or eligible for listing, or that the applicant has reason to believe may be eligible for listing on the National Register of Historic Places. If the permittee, during construction of work authorized herein, encounters a previously unidentified archaeological or other cultural resource within the permit area subject to Department of the Army jurisdiction that might be eligible for listing in the National Register of Historic Places, the permittee shall immediately stop work in the permit area and notify the District Engineer. The permittee shall not begin or continue work until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity may proceed. Information on the location and existence of historical resources can be obtained from the Maryland Historic Trust, Office of Preservation Services, and the National Register of Historic Places.
2. **National Lands.** Activities authorized by the MDSPGP-2 shall not impinge upon the value of any Federal land, including but not limited to, National Wildlife Refuge, National Forests, National Marine Sanctuaries or any area administered by the National Park Service (e.g. Assateague Island National Seashore).
3. **Endangered Species.** The MDSPGP-2 does not authorize any activity that may affect a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which is likely to destroy or adversely modify the critical habitat of such species unless and until appropriate coordination with the applicable resource agency(s) is complete and all such issues are resolved in accordance with the applicable regulations and the procedures outlined in the MDSPGP-2 Standard Operating Procedures. MDE, in cooperation with Maryland Department of Natural Resources, shall conduct an initial review and notify the Corps and the U.S. Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS) if any Federally listed species or critical habitat is likely to be in the vicinity of the project. The Corps shall determine if consultation with FWS or NMFS is required under Section 7 of the ESA. If consultation is required, the applicant, after notification, shall not begin or continue work until notified by the District Engineer that the requirements of the ESA have been satisfied and that the activity is eligible for authorization. Information on the location of threatened and endangered species and their critical habitat can be obtained from the FWS and NMFS.
4. **Essential Fish Habitat (EFH).** Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act requires an EFH consultation with the NMFS for any action or proposed action authorized, funded, or undertaken by a federal agency that may adversely affect EFH. EFH has been defined by Congress as "those waters and substrate necessary to fish for spawning, breeding, feeding or growing to maturity." The designation and conservation of EFH seeks to minimize adverse effects on habitat caused by fishing and non-fishing activities. NMFS, in consultation with the District, has determined that projects authorized under Category I (includes projects reviewed under Category II) of the MDSPGP-2 which comply with all terms and conditions of the MDSPGP-2 and all activity-specific impact limits and conditions, will not have an adverse effect

on EFH. Projects that are proposed in areas designated as EFH and that do not qualify for MDSPGP-2 authorization under Category I, will require a case-by-case EFH effect determination.

5. **Wild and Scenic Rivers.** No activity is authorized under the MDSPGP-2 that occurs in a component of the National Wild and Scenic River System, including rivers officially designated by Congress as study rivers for possible inclusion in the system, while such rivers are in an official study status, unless the appropriate Federal agency, with direct management responsibility for the river, has determined in writing that the proposed activity will not adversely affect any National Wild and Scenic River, including study rivers. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, or U.S. Fish and Wildlife Service).
6. **Federally Authorized Civil Works Projects.**
 - a. **Federal Navigation Project.** The MDSPGP-2 does not authorize interference with any Federal navigation project. The permittee understands and agrees that, if future operations of the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration. (See VLA 7.a. of the MDSPGP-2)
 - b. **Other Federally Authorized Civil Work Projects (i.e., flood control, dams, and reservoirs).** The MDSPGP-2 does not authorize interference with any proposed or existing Federally authorized civil works project.
7. **Federal Liability.** In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project, or uses thereof, as a result of other permitted or unpermitted activities or from natural causes;
 - b. Damages to the permitted project, or uses thereof, as a result of current or future activities undertaken by or on behalf of the United States in the public interest;
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit;
 - d. Design or construction deficiencies associated with the permitted work; and
 - e. Damage claims associated with any future modification, suspension, or revocation of the MDSPGP-2 or any specific MDSPGP-2 verification.
8. **Navigation.** Projects authorized under the MDSPGP-2 shall not cause interference with navigation, and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized under the MDSPGP-2. Nothing in the MDSPGP-2 shall in any way restrict the District Engineer, U.S. Army Engineer District, Baltimore, from exercising his legal authority to protect the public interest in navigation or from exercising his authority under Navigation Servitude of the United States. (See VLA 7.a of the MDSPGP-2)

C. Minimization of Environmental Impacts:

1. **Minimization.** Discharges of dredged or fill material into Waters of the United States and adverse impacts of such discharges on the aquatic ecosystem shall be avoided and minimized to the maximum extent practicable on-site.
2. **Mitigation.** Generally, compensatory mitigation will be required for all permanent tidal or nontidal wetland impacts either through the State's tidal or nontidal wetland compensation fund or by the permittee as required by the special condition of the MDSPGP-2 or the State authorization.
3. **Work in Wetlands.** Heavy equipment working in wetlands shall be avoided if possible and, if required, shall minimize soil and vegetation disturbance by using techniques such as timber mats, geotextile fabric, and vehicles with low-pressure tires. Disturbed areas in wetlands shall be restored to pre-construction contours and elevations upon completion of the work.
4. **Temporary Fill and Mats.** Temporary fill and the use of mats are both considered discharge of fill material and must be included in the quantification of impact area authorized by the MDSPGP-2. Temporary fill (e.g., access roads, cofferdams) in waters and wetlands authorized by the MDSPGP-2 shall be properly stabilized during use to prevent erosion. Temporary fill in wetlands shall be placed on geotextile fabric laid on existing wetland grade.

Upon completion of the work, all temporary fills shall be disposed of at an upland site, suitably contained to prevent erosion and transport to a waterway or wetland. Temporary fill areas shall be restored to their original contours and elevations and revegetated with comparable native species.

5. **Erosion and Sediment Control.** Adequate erosion and sediment control measures, practices and devices, such as vegetated filter strips, geotextile silt fences, phased construction, or other devices or methods, shall be used to reduce erosion and retain sediment on-site during and after construction. These devices and methods shall be capable of a) preventing erosion, b) collecting sediment and suspended and floating materials, and c) filtering fine sediment. Erosion and sediment control devices shall be removed when the work is complete and the site has been successfully stabilized. The sediment collected by these devices shall be removed and placed at an upland location, in a manner that will prevent its later erosion into a waterway or wetland. All exposed soil and other fills shall be permanently stabilized at the earliest practicable date.
6. **Water Crossings.**
 - a. All temporary and permanent crossings of waterbodies shall be suitably bridged, culverted or otherwise constructed to withstand and to prevent the restriction of high flows, to maintain existing low flows, and to prevent the obstruction of movement by aquatic life indigenous to the waterbody.
 - b. No open trench excavation shall be conducted in-stream without use adequate diversion structures.
 - c. Equipment shall cross streams only at suitably constructed permanent or temporary crossings.
 - d. Temporary structures and fills shall be removed and the area restored to its original contours and elevations, or to the conditions specified in the approved plans. The temporary structures and the areas of fill associated with these structures must be included in the total waterway/wetlands impacts.
7. **Utility Lines.**
 - a. Impacts shall be minimized by using directional drilling, jack and bore, missile, or similar methods when feasible.
 - b. All in-stream work shall be conducted "in the dry" whenever practicable, by using stream diversion devices other than earthen or stone cofferdams.
8. **Discharge of Pollutants.** All activities that are authorized under the MDSPGP-2 and that involve any discharge or relocation of pollutants into Waters of the United States shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the Clean Water Act (33 U.S.C. 1251 et. Seq.), and applicable State and local laws and regulations.
9. **Spawning Areas.** Discharge in fish and shellfish spawning or nursery areas during spawning seasons shall be avoided. Impacts to these areas shall be avoided or minimized to the maximum extent practicable during all other times of year.
10. **Environmental Values.** The permittee shall make every reasonable effort to construct or operate the work authorized under the MDSPGP-2 in a manner that maintains as many environmental values as practicable, and that avoids or minimizes any adverse impacts on existing fish, wildlife and natural environmental values.

D. Procedural Conditions:

1. **Inspections.** The permittee shall permit the District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary to ensure that the work is being performed in accordance with the terms and conditions of the MDSPGP-2. The District Engineer may also require post-construction engineering drawings (as-built plans) for completed work, and post-dredging survey drawings for any dredging work.
2. **Compliance Certification.** Every permittee who receives a written MDSPGP-2 verification shall submit a signed certification regarding the completed work and any required mitigation. The certification form will be forwarded to the permittee with the MDSPGP-2 verification. The completed form will include the following
 - a. A statement that the authorized work either was or was not done in accordance with the MDSPGP-2 verification, including any general and/or specific conditions. If the activity was not done in accordance with the MDSPGP-2 verification, including any general and/or specific conditions, the permittee shall describe the specifics of the deviation from the authorized activity.
 - b. A statement that any required mitigation was or was not completed in accordance with the permit conditions. If the mitigation was not completed in accordance with the permit conditions, the permittee shall describe the specifics of the deviation from the permit conditions.
 - c. The signature of the permittee, certifying the completion of the work and compensatory mitigation.

After the project is completed, the certification shall be sent to the District at the following address:

U.S. Army Corps of Engineers
Baltimore District
Attn: CENAB-OP-R
P.O. Box 1715
Baltimore, MD 21203-1715

3. **Maintenance.** The permittee shall maintain the work or structures authorized in good condition and in compliance with the terms and conditions of the MDSPGP-2.
4. **Property Rights.** The MDSPGP-2 does not convey any property rights, either in real estate or material, or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations.
5. **Modification, Suspension and Revocation.** The MDSPGP-2, or any verification under it, may be either modified, suspended, or revoked in whole or in part pursuant to Department of the Army policies and procedures and any such action shall not be the basis for any claim for damages against the United States.
6. **Restoration.** The permittee, upon receipt of a notice of revocation of authorization under the MDSPGP-2, shall restore the wetland or waterway to its former condition, without expense to the United States and as directed by the Secretary of the Army or his authorized representative. If the permittee fails to comply with such a directive, the Secretary or his designee may restore the wetland or waterway to its former condition, by contract or otherwise, and recover the cost from the permittee.
7. **Special Conditions.** The Corps may impose other special conditions on any project authorized under the MDSPGP-2, in cases where the Corps determines that special conditions are necessary to avoid or minimize adverse effects on the environment or on any other factor of public interest. Failure to comply with all conditions of the authorization/verification, including special conditions, will constitute a permit violation/unauthorized work and may subject the permittee to criminal, civil, or administrative penalties, and/or restoration.
8. **False or Incomplete Information.** If the Corps verifies a project under the MDSPGP-2 and subsequently discovers that it has relied on false, incomplete or inaccurate information provided by the permittee, the MDSPGP-2 verification may be revoked and the Government may institute appropriate legal proceedings.
9. **Compliance.** Any activity performed in Waters of the United States, including wetlands and navigable waters, that is not in compliance with all the terms and conditions of the MDSPGP-2 that includes the MDSPGP-2 Category List activity-specific conditions, constitutes unauthorized work and is subject to an enforcement action by the Corps or the Environmental Protection Agency (EPA). Furthermore, the MDSPGP-2 does not delegate any Section 404 enforcement or regulatory authority. When unauthorized work occurs in Waters of the United States, including wetlands and navigable waters, it is subject to one or more of the following responses by EPA and/or the Corps:
 - a. A Cease and Desist order and/or an administrative compliance order requiring remedial action.
 - b. Initiation and assessment of Class I administrative penalty order pursuant to Section 309(g) of the Clean Water Act.
 - c. Initiation and assessment of a Class II administrative penalty for continuing violation pursuant to Section 309(g) of the Clean Water Act.
 - d. Referral of the case to the U.S. Attorney with a recommendation for a civil or criminal action.
 - e. If the Corps determines that an after-the-fact application is appropriate, it will be reviewed following the appropriate procedures.
 - f. Any other appropriate response.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1716
BALTIMORE, MD 21203-1716

200561839
Corps Permit Number

MDSPGP-2
CATEGORY I ACTIVITIES
Fill Activities
Underground and Overhead Utility Lines

This activity authorizes discharges of dredged or fill material associated with excavation, backfill and bedding for utility lines provided there is no change in preconstruction contours. A utility line is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquefiable or slurry substance. Utility lines also include any cable, line or wire for the transmission of electricity, telephone and telegraph messages, radio, television or other communication. This activity also authorizes mechanized land clearing, construction of temporary and permanent access roads for the utility line, and foundations associated with overhead utility lines. In addition, one driveway crossing with the utility crossing may be authorized by this activity if the single and complete project is to provide access and utilities to a single residential lot, not part of a larger development and not requiring other impacts to wetlands and/or streams for the development of the lot. This discharge, as are all of the other cited discharges of this activity, is subject to the impact limits and activity-specific conditions listed below, in addition to the general conditions of this permit. Discharges that do not meet these impact limits and/or conditions do not qualify for authorization under Category I and will be reviewed under Category III or alternate Corps permit review. (Section 10 and 404; limited to all nontidal wetlands and streams, and tidal wetlands and certain waters, as specified below)

A. Impact Limits: The total temporary and permanent impact to Waters of the United States, which includes tidal and nontidal wetlands, streams, rivers, and other open waters, is less than 0.25 acre (10,890 square feet). Included in this areal limit, is a total maximum distance impact limit to streams and other open waters of no more than 500 linear feet, which is measured along the centerline of the waterway. The width of the water body is measured bank to bank at the ordinary high water line or the mean high water line. For all access road and/or single residential driveway crossings, total temporary and permanent impacts to all Waters of the United States, including wetlands and streams, are to be less than 5,000 square feet, and total stream impacts are limited to no more than 200 linear feet in length of the allowable maximum 500 linear feet. The acreage of impact to streams and wetlands includes the filled area, both temporary and permanent, plus streams and wetlands that are adversely affected by the project through permanent flooding, draining, or mechanized landclearing.

B. Conditions:

1. Application must be submitted to MDE for Federal authorization.
2. The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning "single and complete project.")
3. Impacts shall be minimized by using directional drilling, jack and bore, missile, or similar methods when feasible.
4. Pipe diameter for underground water and sewer lines must not exceed 8 inches.
5. Pipe diameter for underground natural gas lines must not exceed 12 inches.
6. In some instances, a proposed water or sewer line will extend service to currently undeveloped residential lots that have been platted partially or totally in wetlands. In these cases, extension of sewer and/or water service to such lots may be the impetus for lot owners to propose to fill wetlands on the lots for construction of homes. Under these circumstances, the utility line does not qualify for authorization under Category I and will be reviewed under Category III.
7. For the single residential lot project that proposes both a driveway and a utility line crossing, the utility line should be placed within the driveway right-of-way where practicable to result in a single crossing of the Waters of the United States.
8. When underground utility lines are installed in streams and wetlands, bedding material must not promote drainage of the streams and wetlands. Clay plugs, impervious membranes, or other materials must be placed in the trenches to reduce drainage through the backfill material.
9. The top of the cable, encasement, or pipeline shall be located a minimum of three feet below the existing bottom elevation of the streambed and generally does not require any riprap protection in-stream. When the utility is placed in bedrock, a minimum depth of one foot from the lowest point in the natural contour of the streambed shall be maintained.
10. In wetlands, the top 6 to 12 inches of the trench must be backfilled with the top 6 to 12 inches of topsoil removed from the trench.

11. Excavated material must be stabilized with straw bales, silt fence, or other erosion and sediment control measures to prevent reentry of soil into Waters of the United States.
12. Excavated material must not be stockpiled in wetlands for longer than 14 days.
13. Limit-of-disturbance easements for the construction of utility lines within Waters of the United States, including wetlands, must be limited to the minimum width necessary and must not exceed 30 feet in width.
14. Immediately after construction of the utility line is completed, excess material must be removed to upland areas and stabilized with straw bales, silt fence or other erosion and sediment control devices to prevent its reentry into Waters of the United States, including wetlands.
15. Exposed slopes and stream banks must be stabilized and revegetated, preferably with native, woody species, immediately after construction of the utility line is completed.
16. Any utility line and road crossing of tidal waters is limited to man-made tidal ditches or channels (e.g., roadside and agricultural ditches) that are no more than 12 feet wide measured at the mean high water line. All other permanent road crossings of tidal waters are to be reviewed as Category III activities.
17. The utility line and any road crossing must not cross in the location of a braided channel nontidal system.
18. All utility line and temporary and permanent road crossings of waterbodies must not restrict low flows.
19. The utility line and any road crossing must be constructed roughly perpendicular to Waters of the United States, including streams and wetlands. If the utility line is placed within a jurisdictional area (i.e., a Water of the United States), and it runs parallel to a streambed that is within that jurisdictional area, the activity does not qualify for authorization under Category I and will be reviewed under Category III.
20. All temporary and permanent road crossings of waterbodies must be bridged, culverted or designed in some other manner so that they will withstand, but not restrict, expected high flows.
21. All temporary and permanent road crossings must be the minimum width necessary for the crossing.
22. For permanent culverted crossings, the single culvert, or one of the multiple cells, must be depressed a minimum of one foot below the invert of the stream, or 20% of the diameter width for culverts less than 36 inches in diameter.
23. For permanent culverted crossings, flow depth and velocity (not more than 3 to 4 ft./sec.) through the culvert and the slope of the culvert must be taken into consideration in the design of the crossing to ensure anadromous and resident fish passage. In addition, all utility line and temporary and other types of permanent road crossings of waterbodies must not restrict the movement of aquatic organisms, including anadromous, estuarine and resident fish species.
24. Any temporary crossing must be removed within 14 calendar days after the structure is no longer needed, subject to any time-of-year restrictions, and no later than one year of the installation date.
25. Areas in Waters of the United States impacted for installation of utility lines, temporary access roads, or other temporary activities or structures, must be returned to pre-construction conditions, which includes contours, elevations, stream substrate, and revegetation with native wetland species.
26. Utility line and road construction across streams must be conducted "in the dry" whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.
27. When mechanized landclearing results in the permanent removal or conversion of a forested or scrub-shrub wetland to an herbaceous wetland in the permanently maintained utility right-of-way, mitigation is required to reduce the adverse effects of the project to the minimal level. This is in addition to the requirement to mitigate for permanent wetland impacts resulting from the discharge of dredged or fill material.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

MDSPGP-2 PERMIT COMPLIANCE, SELF-CERTIFICATION FORM (10/1/01)

Corps Permit No. _____ Date of Issuance _____

Project Name _____ Applicant Name _____

Waterway _____ County _____

Dear Permittee:

In accordance with the compliance certification condition of your MDSPGP-2 authorization, you are required upon completion of all permitted work, or if mitigation/compensation is required, within one year from the date of issuance of the above referenced permit, to complete and sign this certification form and return it to the Corps of Engineers, Baltimore District to the address shown above and include ATTN: CENAB-OP-R.

Please note that the permitted activity is subject to compliance inspections by U.S. Army Corps of Engineers representatives.

As a condition of this permit, failure to return this notification form, provide the required information below, or to perform the authorized work in compliance with the permit, can result in suspension, modification or revocation of your authorization in accordance with 33 CFR Part 325.7 and/or administrative, civil, and/or criminal penalties, in accordance with 33 CFR part 326.

Please provide the following information:

1. Date authorized work commenced: _____ 2. Date authorized work completed: _____

3. Was all work and any required mitigation, completed in accordance with your MDSPGP-2 authorization, including all general and/or specific conditions? YES ___ NO ___

4. Explain in detail any deviations to the authorized work and/or mitigation (use additional sheets if necessary) _____

5. Was mitigation accomplished through a contribution to the Maryland Nontidal Wetlands Compensation Fund? YES ___ NO ___ (if NO complete Nos. 6 and 7 below).

6. Wetland Mitigation: Required? YES ___ NO ___ Required Completion Date _____
Completed? YES ___ NO ___ Mitigation Monitoring Reports Required? YES ___ NO ___

7. Attach labeled photographs showing completed work including mitigation area(s).

I hereby certify that, except as noted above, that all work, including mitigation, has been completed in accordance with the terms and conditions, including special conditions of the above referenced permit.

Signature of Permittee _____ Date _____

Address: _____

Telephone: _____

Signature of Contractor/Agent _____ Date _____

Address: _____

Telephone: _____

Davis, Renn & Associates, Inc.
Engineers-Planners-Surveyors

P.O. Box 246
Hagerstown, MD 21741
Phone 301.739.5660
Facsimile 301.582.4336

TRANSMITTAL

TO: W.F. DELAUTER & SON, INC.
2 CREAMERY WAY
EMMITSBURG MD 21727

DATE: 17 NOVEMBER 2009
JOB NO: 083001
ATTN: KIRBY DELAUTER
RE: CORPORATION OF KEEDYSVILLE
WATERLINE IMPROVEMENTS

We are sending you (X) Attached () Under separate cover via _____ the following items:

COPIES	DATE	NO	DESCRIPTION
1	16 Nov 2009	---	NOTICE TO PROCEED - MT. HEBRON ROAD WATERLINE EXTENSION
1	16 Nov 2009	---	FULLY EXECUTED STANDARD FORM OF AGREEMENT - MT. HEBRON ROAD WATERLINE EXTENSION

THESE ARE TRANSMITTED as checked below:

() For approval (x) For your use () As requested () For review & comment
() For your information and file () Other: _____

REMARKS:

COPY TO: Barry Levey w/one (1) set of documents
Project File

SIGNED: Stephen C. Cvijanovich

NOTICE TO PROCEED

Dated 16 November 2009TO: W.F. Delauter and Son, Inc.
(CONTRACTOR)ADDRESS: 2 Creamery Way
Emmitsburg MD 21727OWNER'S PROJECT NO. 083001PROJECT Corporation of Keedysville Waterline ImprovementsOWNER'S CONTRACT NO. N/ACONTRACT FOR Mt. Hebron Road Waterline Extension

(Insert name of Contract as it appears in the Bidding Documents)

You are notified that the Contract Time under the above contract will commence to run on November 16, 2009. By that date, you are to start performing your obligations under the Contract Documents. In accordance with Article 3 of the Agreement, the dates of Substantial Completion and Final Completion are March 16, 2010 and March 31, 2010, respectively.

Before you may start any Work at the site, Article 5 of the General Conditions provides that you must deliver to the Owner (with copies to ENGINEER) certificates of insurance which you are required to purchase and maintain in accordance with the Contract Documents.

Also before you may start any Work at the site, you must
(add other requirements)

Copy to ENGINEER
(Use Certified Mail,
Return Receipt Requested)

Corporation of Keedysville
(OWNER)
By Barry Fay
(AUTHORIZED SIGNATURE)
ASSISTANT Mayor
(TITLE)

EJCDC
STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR
ON THE BASIS OF A STIPULATED PRICE

THIS AGREEMENT is dated as of the 16th day of November in the year ~~19~~ 2009 by and between Corporation of Keedysville

Huntzberry Brothers, Inc. (hereinafter called OWNER) and
(hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK.

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Corporation of Keedysville Waterline Improvements

The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

Mt. Vernon Drive Waterline Replacement

Article 2. ENGINEER.

The Project has been designed by Davis, Renn & Associates, Inc.

who is hereinafter called ENGINEER and who is to act as OWNER's representative, assume all duties and responsibilities and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

Article 3. CONTRACT TIME.

3.1. The Work will be substantially completed on or before March 16, 2010, ~~XXXX~~, and completed and ready for final payment in accordance with paragraph 14.13 of the General Conditions on or before March 31, 2010, ~~XXX~~.

3.1. The Work will be substantially completed within 120 days from the date when the Contract Time commences to run as provided in paragraph 2.3 of the General Conditions, and completed and ready for final payment in accordance with paragraph 14.13 of the General Conditions within 135 days from the date when the Contract Time commences to run.

3.2. *Liquidated Damages.* OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER Fifty and 00/100 dollars (\$ 50.00) for each day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete. After Substantial Completion if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by

(Strike Inapplicable Paragraph)

OWNER, CONTRACTOR shall pay OWNER Fifty and 00/100
50.00 dollars (\$ 50.00) for each day that expires after the time
 specified in paragraph 3.1 for completion and readiness for final payment.

Article 4. CONTRACT PRICE.

4.1. OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents in current funds as follows:

[here insert a lump sum, unit prices or both, if necessary attach exhibits and list them in Article 8.]

See attached Bid Schedule

[CONTRACTOR's Bid may be attached as an exhibit to avoid lengthy retyping of unit price schedules, formulae for escalation of prices, information as to alternatives, etc.]

Article 5. PAYMENT PROCEDURES.

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

5.1. *Progress Payments.* OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment as recommended by ENGINEER, on or about the 1st day of each month during construction as provided below. All progress payments will be on the basis of the progress of the Work measured by the schedule of values established in paragraph 2.9 of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

5.1.1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as ENGINEER shall determine, or OWNER may withhold, in accordance with paragraph 14.7 of the General Conditions.

10 % of Work completed. If Work has been 50% completed as determined by ENGINEER, and if the character and progress of the Work have been satisfactory to OWNER and ENGINEER, OWNER on recommendation of ENGINEER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage on account of Work completed in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100% of the Work completed.

5 % of materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to OWNER as provided in paragraph 14.2 of the General Conditions).

5.1.2. Upon Substantial Completion, in an amount sufficient to increase total payments to CONTRACTOR to 90 % of the Contract Price, less such amounts as ENGINEER shall determine, or OWNER may withhold, in accordance with paragraph 14.7 of the General Conditions.

5.2. *Final Payment.* Upon final completion and acceptance of the Work in accordance with paragraph 14.13 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 14.13.

Article 6. INTEREST.

All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the maximum rate allowed by law at the place of the Project.

Article 7. CONTRACTOR'S REPRESENTATIONS.

In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

7.1. CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work.

7.2. CONTRACTOR has studied carefully all reports of explorations and tests of subsurface conditions and drawings of physical conditions which are identified in the Supplementary Conditions as provided in paragraph 4.2 of the General Conditions, and accepts the determination set forth in paragraph SC-4.2 of the Supplementary Conditions of the extent of the technical data contained in such reports and drawings upon which CONTRACTOR is entitled to reply.

7.3. CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports and studies (in addition to or to supplement those referred to in paragraph 7.2 above) which pertain to the subsurface or physical conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the Work as CONTRACTOR considers necessary for the performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of paragraph 4.2 of the General Conditions; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by CONTRACTOR for such purposes.

7.4. CONTRACTOR has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or will be required by CONTRACTOR in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of paragraph 4.3 of the General Conditions.

7.5. CONTRACTOR has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.

7.6. CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

Article 8. CONTRACT DOCUMENTS.

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR concerning the Work consist of the following:

8.1. This Agreement (pages 1 to 5, inclusive).

8.2. Exhibits to this Agreement (pages 1 to 3, inclusive).

8.3. Performance and other Bonds, identified as exhibits A & B and consisting of 2 pages.

8.4. Notice of Award.

8.5. General Conditions (pages 1 to 33, inclusive).

8.6. Supplementary Conditions (pages N/A to N/A, inclusive).

8.7. Specifications bearing the title Keedysville Standard Water Specifications and consisting of 5 divisions and 136 pages, as listed in table of contents thereof.

8.8. Drawings, consisting of a cover sheet and sheets numbered 1 through 4, inclusive with each sheet bearing the following general title: *** Please see below.**

[Fill in, and, if a set of Drawings is not attached to each signed counterpart of Agreement, so indicate, in which case OWNER and CONTRACTOR should initial or otherwise appropriately identify all Drawings.]

8.9. Addenda numbers 1 to 2, inclusive.

8.10. CONTRACTOR's Bid (pages N/A to N/A, inclusive) marked exhibit _____.

[Attach Bid Form only in special circumstances.]

8.11. Documentation submitted by CONTRACTOR prior to Notice of Award (pages N/A to N/A, inclusive).

8.12. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to paragraphs 3.4 and 3.5 of the General Conditions.

8.13. The documents listed in paragraphs 8.2 et seq. above are attached to this Agreement (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this Article 8. The Contract Documents may only be amended, modified or supplemented as provided in paragraphs 3.4 and 3.5 of the General Conditions.

Article 9. MISCELLANEOUS.

9.1. Terms used in this Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

9.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.3. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

*** Proposed 8" Waterline Replacement at Antietam Drive
and Proposed 1-1/2" Waterline Replacement at
Mt. Vernon Drive.**

Article 10. OTHER PROVISIONS.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in triplicate. One counterpart each has been delivered to OWNER, CONTRACTOR and ENGINEER. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or by ENGINEER on their behalf.

This Agreement will be effective on 16 November 2009, ~~19xx~~.

OWNER Corporation of Keedysville

CONTRACTOR Huntzberry Brothers

By [Signature]

By [Signature]

Attest [Signature]
[CORPORATE SEAL]

Attest [Signature]
[CORPORATE SEAL]

Address for giving notices

Address for giving notices

P.O. Box 359
KEEDYSVILLE, MD 21756

21536 Chewsville Road

Smithsburg MD 21783

(If OWNER is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Agreement.)

License No. _____

Agent for service of process: U.S. Mail

(If CONTRACTOR is a corporation, attach evidence of authority to sign.)

TOWN OF KEEDYSVILLE, MARYLAND

"Where Northern Thrift and Personality Blend with Southern Charm and Hospitality"

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301-432-5795
townhall@keedysvillemd.com
www.keedysvillemd.com



Ken Lord, Mayor
Brandon Sweeney, Assistant Mayor
Judy Kerns, Council
Matthew Hull, Council
Sarah Baker, Council

Approved

Mayor and Council Minutes July 6, 2022

The monthly meeting of the Keedysville Mayor and Town Council was called to order at 7:00 pm with the following present: Mayor Ken Lord, Assistant Mayor Brandon Sweeney, Council Members Judy Kerns, Matt Hull, Town Attorney Ed Kuczynski, Town Administrator Lisa Riner, and Administrative Assistant Teresa Pangle.

Minutes from the June 1, 2022 meeting were approved.

The General Fund Report was \$413,981.94.

Announcements from the agenda were read.

Resident comments

Christy Postell spoke on the safety concerns of Rt 34, a state-run road. She has a petition with 102 signatures on Change.org. Mayor Lord said the Town could write a letter to the State Highway Dept, and the petition could be posted on the website. Deputy Peyton mentioned an ACRS report which has all crash data. There was much discussion and agreement on continuing to encourage the State Highway Dept to make a section of Rt 34 a no-passing zone.

Brad Belmont introduced himself. He is running as a first-time candidate for the House of Delegates. Public safety is a main concern for him as well as what is being taught in schools.

Charlie Burkett introduced himself as County Commissioner of Washington County. He is working on getting around to each of the county municipalities. He said financially Washington County is in better shape than ever before with surpluses.

John Burtner spoke to get the Council's awareness about a water issue regarding a stream on his property. The last 4 years the stream has gone dry. He has farmed this property for 46 years and it had only gone dry once before now and it does not follow the rain. He would like log numbers of what Boonsboro pumps from a stream. Mr. Hull said to the best of his knowledge stream flow is not monitored. He also mentioned the bridge that accesses the spring becomes a dam in wet weather and floods his property. It is unclear when and who replaced the current bridge.

Deputy Peyton reported he completed his various patrols, 3 citations, and 3 warnings, and all but 1 vehicle has been removed from the ballfield parking lot. He is taking care of that one.

Old Business

Research is still being done on the electronic filing of Town Hall records.

Town Attorney Ed Kuczynski will send a letter to Antietam Broadband to advise them about the cable franchise agreement. Moving forward the right-of-way agreement will need to be fine-tuned. He doesn't advise the Town to move forward with Antietam until we get a clearance from Comcast.

POS Project ideas, Ms. Baker looked into pickleball/tennis court quotes and the low end was \$60k. Mr. Hull moved to fill out the next stage of paperwork to get the funding for the pickleball/tennis court. Mr. Sweeney seconded, and all voted in favor. Ms. Kerns received a quote of \$1100.00 from Dave Nicodemus to supply the food pavilion with water. Mr. Hull motioned to use Hotel/Motel money to supply water at the Park Pavilion, as well as cleaning and exterminator. Ms. Kerns seconded, and all voted in favor.

Ms. Riner received a quote from Bryan Babington, two bollards would be about \$500-\$600. The Council agreed on bollards on either side of Putman's gate, out towards the road, and a sign at Antietam Drive and Main Street to say No trucks over 5 tons. Mr. Hull said the Town should cover the cost.

New Business

The Council needed to pass 2 policies (Energy Efficiency Policy and Renewable Energy Policy) to receive the \$20k grant from Maryland Smart Energy. Ms. Kerns motioned to pass Resolutions 2022-2 and 2022-3, Mr. Sweeney seconded, and all voted in favor.

Ms. Kerns spoke of the responsibility and importance of Historic Preservation. Ms. Kerns and Sue Gemeny have items in their homes they would like to preserve and suggested using a portion of Town Hall to display/store these items. There is no space at the library and the Historical Society doesn't have much money. Hotel/Motel money could be used to purchase display cabinets. Mr. Hull motioned to buy cabinets for display/storage, Mr. Sweeney seconded, and all voted in favor.

The Council discussed the two bids received for snow removal & de-icing, from Bryan Babington and Russell Shorten. Ms. Kerns motioned to award the contract to Bryan Babington, Mr. Sweeney seconded, and all voted in favor. Mr. Hull recused himself.

Regarding Boonsboro's National Night Out donation, Mr. Sweeney motioned to donate \$100.00, Ms. Kerns seconded and all voted in favor.

Ms. Riner mentioned Gary Beachley will be moving out of town at the end of the year and will need to be replaced on the Board of Zoning Appeals.

Meeting adjourned at 8:40 pm.

Respectfully Submitted,
Teresa Pangle
Administrative Assistant

TOWN OF KEEDYSVILLE, MARYLAND

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P.O. Box 359
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Ken Lord, Mayor
Brandon Sweeney, Assistant Mayor
Judy Kerns, Council Member
Matthew Hull, Council Member
Sarah Baker, Council Member

Mayor & Council and Water Commission Meeting July 6, 2022

All attendees must sign in. Attendee comments will only be heard during the appropriate time in the agenda. Those wishing to be heard must check the appropriate box. Comments will be limited to three minutes each.

NAME	ADDRESS	PHONE	WISH TO BE HEARD
Devin Hawke	Keedysville, MD	301-471-6214	☒
Brad Belmont	Hagerstown, MD	301-991-9155	☒
Jason Knebi's and Sarah Bennett	5 Mallard Rd	248-933-3250	☐
Charles Wray Zerkow	13030 Seaway Ln	301-331-6335	☒
John Burdner	39 Mt. Hebron Rd.		☒
Christy Foster II	6310 Coffman Farms Rd		☒
Holly Law	3213 Fisher Rd. Indpls		☒

Dion Thomsen 9 Mt. Vernon La
301-305-2296

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

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Ken Lord, Mayor
Brandon Sweeney, Assistant Mayor
Judy Kerns, Council
Matthew Hull, Council
Sarah Baker, Council

Mayor & Council Agenda July 6, 2022

Call to Order

Pledge of Allegiance

Approval of Minutes: June 1, 2022 Meeting

General Fund Report: \$413,981.94

Announcements: Washington County Health Fair on July 8th, from 10 am-2 pm in Taylor Park; Laura Merritt started her summer internship at Town Hall through the Western Maryland Consortium

Resident Comments: Christy Postell, SR 34 Safety Concerns

Community Deputy Report

Old Business: Electronic Filing of Town Hall Records; Antietam Broadband Installation; POS Project Ideas for FY2024; Antietam Drive at Main Street large truck issues

New Business: Maryland Smart Energy Community Grant Award Policies; Historic Preservation; Snow Removal and De-icing bids; Boonsboro National Night Out donation

Resident Comments Related to Agenda Items

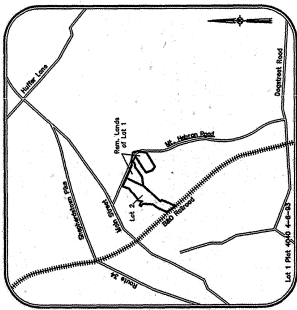
Council Comments

Adjournment

And unto the said Land Call. Gordons Purchase without being induced thereto by the threats of her husband or
 Dear of his further displeasure she being Examined according to the Direction, of the Act of assembly in that Case made and
 provided Evan Shelby Tho^r. Crutcher
 Rec^d Jan^y 13th 1771 of Jacob Kels Six Shillings Sterling for an alienation fine on the within mentioned Land by Order of
 John Merton Jordan Esq^r. his Lordships agent W^m Murdoch Beall

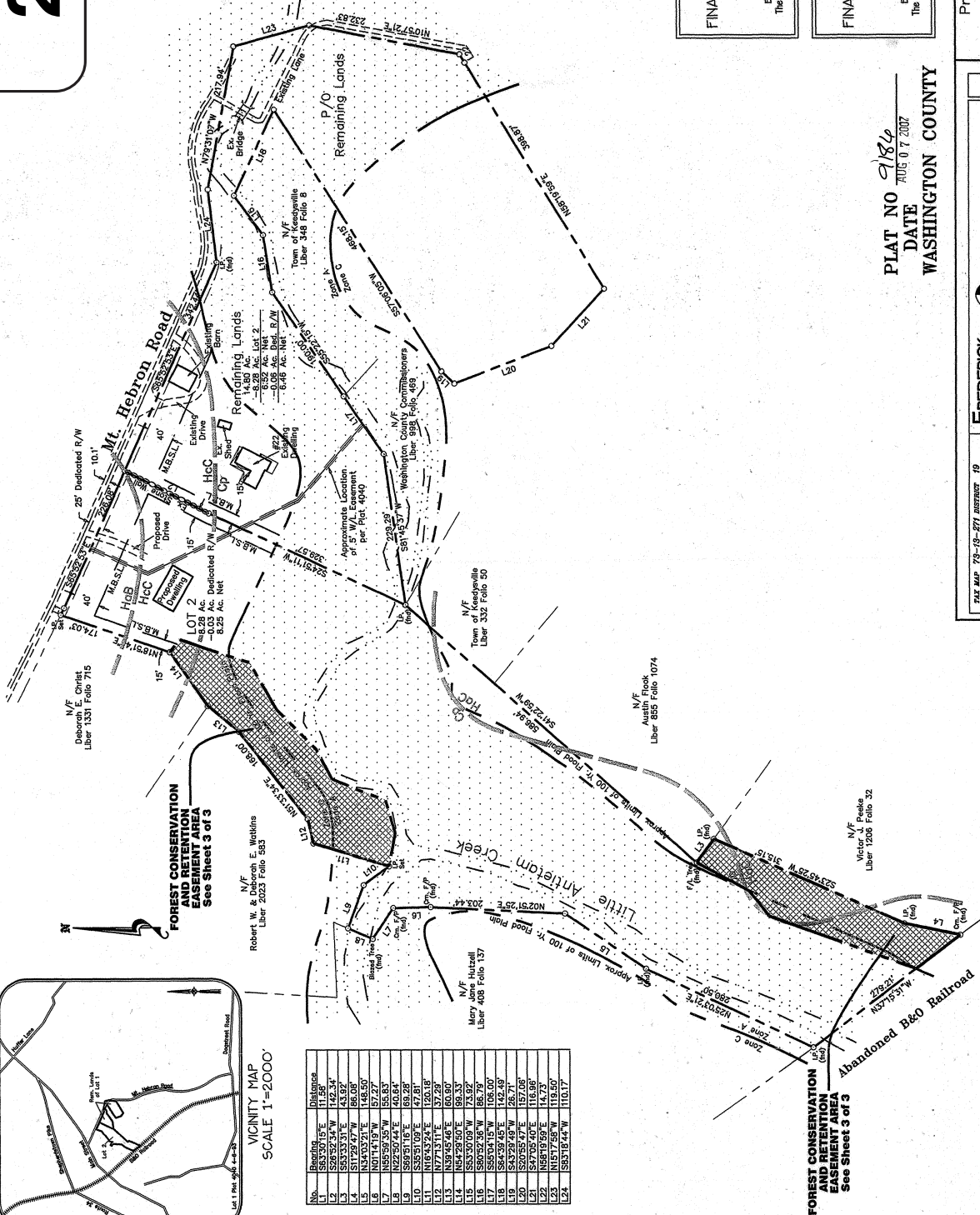
200 1002
 Campbell Nelson
 17 675 L. 10

At the Request of Christian Kels the following Deed was Recorded January the 13th 1771 Powit
 This Indenture made this twenty ninth day of December in the year of our Lord One thousand Seven hun-
 dred and Seventy Between Jacob Kels of the County of Frederick and Province of Maryland of the One part and Christi-
 an Kels of the same County and Province aforesaid of the Other part Witnesseth that the said Jacob Kels for and in
 Consideration of the sum of Five hundred pounds (worth money to him in hand paid by the said Christian Kels before the En-
 sealing and Delivery of these presents the Receipt whereof the said Jacob Kels doth acknowledge and of every part and parcel
 thereof doth acquit and Discharge the said Christian Kels his heirs and assigns for Ever he the said Jacob Kels hath grant-
 ed Bargained and sold alienated and Confirmed and by these presents doth hereby grant Bargain and sell alienate and Confirm
 unto him the said Christian Kels his heirs and assigns for Ever all that part of a tract of Land call^d Gordons Purchase situate
 laying and being in the County aforesaid Included by the following corners and Beginning for the said part at the Beginning Tree
 of the said Land call^d Gordons and Running thence forth thirty two Degrees and One half Degree West Twenty Searches to Little Ant-
 tums Creek then North sixty Degrees and One half Degree West twenty seven perches to a marked Stone then North seventeen Degrees
 East thirty Searches then North sixty seven Degrees West fifty eight perches to the End of ninety eight Searches on the ninth
 Line of the said Land Call^d Gordons Purchase and Running with the lines of the said Land North twenty one Degrees
 East ninety eight perches then North forty five Degrees East One hundred and sixty perches then North seventy five Degrees
 then North three Degrees East sixty Searches then South sixty Degrees West forty eight perches then North thirty three Degrees West
 sixty perches then with the first line of the said Land Call^d Gordons Purchase North forty eight Degrees five Degrees West seventy eight
 perches to the aforementioned beginning Tree Containing One hundred and four acres and One half of One acre of Land be-
 the same more or less with the appurtenances unto the said Land Belonging or in anywise appertaining and all the Estate Right
 Title Interest Claim and demand whatsoever of him the said Jacob Kels of and unto the said Part of Gordons Purchase
 aforesaid and Every part and parcel thereof Except the water course of Little Anttums Creek and Draught of water falling
 from the Great Spring thence the said part of Gordons Purchase which the said Jacob Kels doth not hereby convey but the same
 doth fully and wholly Reserve to himself and his heirs To have and to hold the said part of Gordons Purchase
 and all ... the Bargained premises thereunto belonging Except what is before Excepted unto him the said Christian Kels his
 heirs and assigns to the Only proper use and behoof of him the said Christian Kels his heirs and assigns for Ever and to no
 Other use Intest or purpose whatsoever and the said Jacob Kels for himself and his heirs the said Part of Gordons Purchase and
 all and Every of the premises Benefits and Advantages thereon and in anywise thereto belonging with the appurtenances and
 Every part and parcel thereof (Except what is before Excepted) against him the said Jacob Kels and his heirs and against all
 and Every Other person or persons whatsoever claiming by how or under him they or any of them unto him the said Christian
 Kels his heirs and assigns shall and will Advise and for Ever Defend by these presents and the said Jacob Kels for himself
 and his heirs doth hereby Covenant grant and agree to and with the said Christian Kels his heirs and assigns that at the time
 of the Enrolling and Delivery of this Request Indenture of Land that the said Land Call^d Gordons Purchase is free and clear from
 all Incumbrances of what nature or kind soever the Rents and Services how henceforth growing due and payable to the King
 or Lords of the fee Only Excepted and foreprized In Witness whereof the said Jacob Kels hath hereunto set his hand and affix
 his seal the Day and Year first above written
 (Signed) Sealed and Delivered in the presence of Tho^r. Crutcher Sam^l. Beall Jun^r Jacob Jmp^s



VICINITY MAP
SCALE 1"=2000'

No.	Runoff	Discharge
1	\$20,550.15^a\$	11.58'
2	\$20,552.34^a\$	14.34'
3	\$20,553.31^a\$	43.93'
4	\$21,229.47^a\$	148.05'
5	\$24,032.41^a\$	166.58'
6	\$27,141.19^a\$	57.27'
7	\$27,552.35^a\$	45.64'
8	\$27,552.35^a\$	45.64'
9	\$29,949.16^a\$	69.28'
10	\$30,951.09^a\$	47.81'
11	\$16,432.24^a\$	120.18'
12	\$17,771.31^a\$	37.28'
13	\$13,945.46^a\$	60.00'
14	\$14,223.00^a\$	98.33'
15	\$15,000.15^a\$	68.78'
16	\$20,041.15^a\$	106.00'
17	\$20,041.15^a\$	106.00'
18	\$64,339.45^a\$	142.48'
19	\$34,729.49^a\$	26.71'
20	\$20,555.57^a\$	157.06'
21	\$24,705.40^a\$	116.96'
22	\$28,819.93^a\$	44.73'
23	\$28,819.93^a\$	44.73'
24	\$29,914.64^a\$	110.17'



PLAT FEE-A	2.50
RECORDING FEE	2.50
TOTAL	5.00
Rec'd H&H	Rec'd \$ 51140
DJA H&H	Blk # 642
AUG 07, 2007	01:37 PM

Certificate of Approval

FINAL APPROVAL GRANTED

DATE: 4/9/07

By: Timothy G. Roberts

The Town of Knoxville Planning Commission

Certificate of Approval

FINAL APPROVAL GRANTED

DATE: 5/9/07

By: Myrtle Hall Mayor

The Town of Knoxville Mayor and Council

PLAT NO 9186
DATE AUG 07 2007
WASHINGTON COUNTY

Preliminary / Final Plat
of Subdivision of
Lot 2

*M. Yvonne &
Marwell B. Hope, II*
situate along the southern side of
Mt. Hebron Road
Town of Keedysville
WASHINGTON COUNTY, MARYLAND

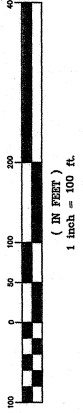
MSD SU 1255-7693

**FREDERICK
SEIBERT &
ASSOCIATES, INC.** 

CIVIL ENGINEERS SURVEYORS LAND
128 SOUTH POTOMAC STREET,
10 WEST BALTIMORE STREET,
(301) 781-3500 (301) 418-7478

TAX MAP 79-19-271 DISTRICT 191	
DRAWING NUMBER 1 OF 3	
DRAWN BY: JLA	DATE: 9-27-06
CHECKED BY:	DATE:
SCALE: 1" = 100'	

GRAPHIC SCALE



Owners:
M. Yvonne & Maxwell B. Hope, II
22 Mt. Hebron Road
Keedysville, MD 21756